

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

TERRY O. FERRELL,)	
A.K.A TERRY O'NEILL BARBER)	DOCKET NO.: PT-1997-40
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE)	FINDINGS OF FACT,
OF THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal came on regularly for hearing on the 10th day of December, 1998, in the City of Great Falls, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was duly given as required by law. The taxpayer, represented by Terry O'Neill Barber and Larry Barber, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by appraiser Robert J. Anderson, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of

this matter, the hearing hereon, and of the time and place of said hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

Land and Improvements on Lot 22, Block 4,
Sunrise Terrace Addn #2, City of Great Falls,
Cascade County, Montana.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$13,158 for the land and \$58,342 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board requesting a reduction in value to \$12,900 for the land and \$40,100 for the improvements.

5. The County Board denied any adjustment to the land value, but reduced the improvement value to \$57,043.

6. The taxpayer then appealed that decision to this Board.

7. The DOR did not appeal that decision to this Board.

TAXPAYER'S CONTENTIONS

The taxpayer modified her requested value before this Board to a total property value of \$60,000. She provided

support for that value through a comparative market analysis (Ex 1), and four recent sales of property deemed to be comparable to the subject (Ex 2).

The comparative analysis was performed by a local realtor on October 31, 1997 and documents what are seen as value limiting characteristics and items that are in need of repair or replacement. Mrs. Barber testified that the home needs new siding, a new roof, new kitchen cabinets, new appliances, new windows, new carpet and linoleum, and new bathroom fixtures.

The taxpayer argued that the comparables selected by the DOR in the pricing of the subject home were, in her opinion, not comparable. This home has no basement, no family room, has had no remodeling, and has a single car garage.

Mrs. Barber stated that she has considered selling the home, but estimates of probable selling prices were below what she had believed the value to be at that time. Because of that, and the fact that the home is occupied by her mother, she decided against selling the home.

Mr. Barber explained that the windows are not thermo-pane windows and would need to be replaced in order to keep it up with what the other owners in the neighborhood have done, as well as other improvements. This property is basically as it was built, except for roofing replacement following a hail

storm in 1979. He stated that the soffits and window jams are starting to rot, and that the siding is apparently getting moisture behind it as it is splitting and will not hold paint anymore.

The taxpayers were of the opinion that the house is average home construction wise, built soundly without structural damage, but that it would take an investment to upgrade electrically and those items of insulation and plumbing that need to be done.

DOR CONTENTIONS

Mr. Anderson presented a picture of the home for the Board to view. He provided a copy of the property record card (Ex A) for the record. The subject lot is 68 feet by 110 feet deep. The DOR values the lots in this area at \$225 per front foot. The base lot size is 50 feet by 150 feet so a depth factor of 86% has been applied to account for the smaller size of the subject lot in depth.

The home is a one story frame house with a 252 square foot attached garage. The home was built in 1959 with an effective age of 1975. It is graded as a quality grade five (average) with a physical condition of good. The determination for the Condition, Desirability, and Utility (CCU), is considered as Good.

BOARD'S DISCUSSION

The taxpayer presented testimony and support that this home has not experienced the upgrading and remodeling that would have kept it up to compete in current markets at the value placed on it by the DOR. She agreed that the home is quality graded correctly based on the type and basic soundness of the property. She did however present issues that would reflect further depreciation than has been given in the appraisal by the DOR.

The escalation of costs by the application of the Economic Condition Factor (ECF) of 109%, the effective year assignment, and the CDU determination of good are all factors that erode or drive the amount of depreciation to be allowed on the property. The DOR has valued this property utilizing the cost approach to value as ordered by the local board. The record contains the Montana Comparable Sales sheet that was presented by the DOR at the local board hearing. Each of the sales of property deemed to be comparable and listed on that sheet are below the cost approach to value determined for that property. The market approach was not presented by the DOR but with the testimony of the need for upgrading of elements such as the roof, windows, and siding for this house to be able to command the values that perhaps would be there in the market, it clearly would require an expense that would still only get

it to the expressed market for the area.

It is the opinion of this Board that there is substantial credible evidence in the record that the subject property be afforded further depreciation for physical reasons.

Based on the evidence and testimony this Board believes that the physical condition shall be reduced from good to average and the CDU reduced from good to average.

CONCLUSIONS OF LAW

1. **15-8-111. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2)(a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be

entered on the tax rolls of Cascade County by the assessor of that county at the 1997 tax year value of \$13,158 for the land and the value for the improvements as determined by the DOR as calculated in compliance with the provisions of this decision.

Dated this 15th of January, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. MCKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.